

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In the Matter Of)	
)	
Revision of the Commission's Rules To)	
To Ensure Compatibility with Enhanced)	CC Docket No. 94-102
911 Emergency Calling Systems)	
Systems)	
)	

Comments of City of Richardson, Texas

The City of Richardson, Texas ("Richardson") hereby submits its Comments in response to Public Notice, DA 01-1623, rel. July 10, 2001, entitled "Wireless Telecommunications Bureau Seeks Further Comment on the Commission's Rules Concerning Public Safety Answering Point Requests for Phase II Enhanced 911" (the "Public Notice").

I. Introduction

Richardson filed its petition in this proceeding because a wireless carrier (VoiceStream) decided based upon its own subjective, uninformed assessment, made without even attempting to consult with Richardson, that Richardson would not be able to receive and utilize the E911 Phase II data within six months of its request to VoiceStream for Phase II service, despite Richardson's representations to VoiceStream. Richardson demonstrated in its reply, in support of its petition, that there was absolutely no basis in fact for VoiceStream's speculative determination; and, that if other carriers were allowed to avoid initiating Phase II service based on these type of arbitrary, unilateral, self-serving, and subjective judgments, the Commission's E9-1-1 mandate would be thwarted, and the public safety would be impaired.

Richardson takes the position that the interpretation of Section 20.18 (j) it urged in its petition to the Commission is correct. Further, such a position and interpretation would encourage the speedy deployment of Phase II service. Additionally to accommodate Richardson's position would further and promote the Commission's overriding policy goal in this proceeding. Failing that, Richardson believes that the source of the problem that it has

encountered is that VoiceStream made a subjective, arbitrary determination of the validity of Richardson's request. The Commission could alleviate and solve such problem by adopting objective criteria by which a PSAP could establish its readiness, if challenged by a carrier.

Accordingly, Richardson is supportive that the Bureau released the Public Notice to identify objective criteria which a PSAP could be required to obtain in order that the PSAP taken sufficient steps to assure that it will be able to receive and utilize Phase II data prior to the date on which the wireless carrier such service. Additionally, by providing objective criteria carrier's obligation to deliver such Phase II service within six months of the PSAP's can be more easily attained. In these Comments, Richardson identifies such objective criteria. The adoption by the Commission of such criteria would give the PSAPs and the carriers the certainty that would prevent carriers from delaying the initiation of Phase II service based on groundless speculation as VoiceStream has done in denying Richardson's request.

Indeed, Richardson believes that in other parts of the country as well, carriers have seized on the lack of such objective criteria in Section 20.18 (j) to avoid deeming PSAP requests to be valid based on arbitrary judgments. If the Commission would specify objective criteria, it would preclude such efforts to delay the initiation of Phase II service. A PSAP, such as Richardson, which has ordered approximately \$250,000 worth of equipment for its medium sized city to receive and use Phase II data, should not have its legitimacy questioned by a carrier without regard to the objective facts. Moreover, without objective criteria from the Commission, one carrier may treat a PSAP request as valid while another carrier treats the same request as invalid. Such diverse results would cause difficulties for PSAPs and the public.

Therefore, based on the preceding, Richardson supports the position of the Commission to adopt objective criteria to establish PSAP readiness, which should be as follows: (1) a showing by the PSAP that a funding mechanism exists for the PSAP to become capable of receiving and utilizing Phase II data; (2) a showing that the PSAP has placed an order for Phase II capable CPE and/or mapping solutions as are necessary to receive and utilize the Phase II data; (3) a showing that a work plan is in place to have the ordered equipment in place within six

months of the PSAP's request to the carrier; and, (4) a showing that the PSAP has contacted its LEC and requested that the LEC make any necessary arrangements for the initiation of Phase II service (such as requesting that the LEC provide any necessary trunking, and any other necessary facilities or capabilities to receive and utilize the Phase II data).

In challenging a carrier concerning readiness in this context, a PSAP should only be required to demonstrate compliance with above stated criteria. In the event of such a challenge, a PSAP may with certainty and clarity show that it has met the criteria concerning carrier's obligation to provide Phase II service within a six (6) month time frame.

Richardson does not believe that the Commission should dictate that PSAPs have a specific type of mapping capability. Under the criteria set forth herein, a PSAP would have to have ordered a mapping capability sufficient for the receipt and utilization of Phase II data. Just as the Commission does not dictate particular technological solutions to carriers, it should not dictate the particular mapping capability to PSAPs as long as the PSAPs can receive and use the Phase II data to protect the public.¹

Richardson emphasizes that many PSAPs across the nation have collected the funds and placed the orders to use Phase II service. For example the Tarrant County 911 District, which has responsibility for 46 PSAPs including the City of Fort Worth, has contracted for approximately \$12.5 million worth of equipment to receive and utilize Phase II data. It would be grossly contrary to the public interest to allow carriers to avoid their obligations to provide Phase II service because carriers wrongly determine, based on no real evidence, that Tarrant County is

¹The Public Notice asks whether it would be sufficient if a PSAP shows that it has implemented Phase I using a Non-Call Path Associated Signaling Capability (NCAS"), a question which appears to assume that PSAPs requesting Phase II service have already implemented Phase I service. However, many PSAPs, like Richardson, have requested Phase I service, but have never received it from any carrier, and have now requested Phase II service. Indeed, Richardson requested Phase I and Phase II service from its six wireless carriers sixteen months ago, in March 2000. To this day, five of the six wireless carriers (all but Sprint PCS) have still failed to provide Phase I service to Richardson. Certainly, if a PSAP is ready to receive and utilize Phase II data, the fact that carriers serving the PSAP have not implemented Phase I service should be irrelevant to whether the carriers are obligated to provide Phase II service.

not obligated for these sums or that Tarrant County will not be ready when the facts are to the contrary.

Richardson trusts that issuance of the Public Notice moots the arguments of VoiceStream and the other major wireless carriers that the Commission could not declare the proper interpretation of Section 20.18(j) of its rules without seeking public comment. Now that the Bureau has sought such comment, the procedural arguments of the wireless carriers, as groundless as they were, need not be given any attention by the Bureau and the Commission . As a result, VoiceStream and other carriers should reasonably be withdrawn.

Finally, Richardson asks for an expeditious decision in this matter. The October 1, 2001 deadline is looming for implication and purchase of its system. The public interest is not served by a failure to act. It is unfortunate that several major carriers have chosen to seek waivers of the Commission's accuracy rules and compliance deadlines. Moreover, these same carriers have taken a strident tack on the question presented by Richardson's petition. With all due respect, the wireless industry, which prides itself on making the public safer, ought to start delivering Phase II service instead of seeking delay and making excuses. It would only compound the delay these carriers are seeking for the Commission not to act expeditiously in this proceeding.

II. The Commission Should Adopt the Objective Criteria Listed Herein

As already shown, there are objective criteria which the Commission could adopt which a PSAP could be required to definitively demonstrate that a request that the PSAP has taken sufficient steps to assure that it will be able to receive and utilize appropriate data prior to the date on which the wireless carrier actually delivers the Phase II service. The PSAP should not have to make a showing to the carrier unless requested; but if requested and such a showing is made, the carrier should be foreclosed from denying that the request is valid. The criteria should be designed to ease the administrative burden and cost on the PSAP and should be bright line rules so that there should be little room for debate about whether a PSAP has met the criteria so as to discourage carriers from using these criteria as vehicles to obtain greater delay.

As already noted, a PSAP should only be required to show that it meets these criteria if a carrier challenges its representation concerning its readiness in a request for Phase II service.

The criteria proposed by Richardson are as follows:

1. **Funding Mechanism**- A PSAP could certainly show that it has in place a funding mechanism for the necessary upgrades. Such a funding mechanism could consist of general funds appropriated for the PSAP's use, specific wireless funds, funds set aside for the administration or capital costs of operating 9-1-1 centers, or the like. The precise funding mechanism may well vary from locality to locality, but the point is that if a PSAP shows that a funding mechanism exists, a carrier should not be able to deny the request because it decides for self-serving reasons that the PSAP cannot fund the upgrades necessary to receive and utilize Phase II data.

2. **Equipment Orders**- Similarly, the Commission could provide that a PSAP need show that it has negotiated an order for the necessary equipment to receive and utilize the Phase II data. Such equipment would consist of Phase II capable CPE and/or mapping solutions as needed by particular PSAPs. Neither the Commission nor the wireless carriers should dictate the particular equipment a PSAP has to order both because the necessary equipment will vary from PSAP to PSAP. The Commission and the wireless carriers should refrain from dictating particular solutions to the PSAPs, just as the Commission does not dictate to the wireless carriers the particular solution they must adopt for Phase II service.

3. **Work Plan**- It is reasonable to require that the PSAPs show that some type of work plan is in place so that the necessary equipment will be installed within six months of the date on which the PSAP makes the request for Phase II service. Of course, the particular components of a work plan will vary based on the unique facts and circumstances faced by each PSAP. But, it should be sufficient if the PSAP can show that it has a plan to accomplish the necessary installations. To minimize the cost and administrative burden on PSAPs, the Commission should specify that such a plan need not be lengthy or in any great detail; as long as the PSAP can show that it has a plan in place to complete the installations, that should be sufficient for purposes of

deciding if the carriers' obligations to deliver Phase II service within six months of the PSAP's request have been triggered.

4. Request to LEC- Finally, it is reasonable to require that a PSAP show that it has contacted its LEC to request that the LEC provide the necessary trunking, and any other necessary facilities or capabilities. If there is a problem with the LEC actually providing necessary services, the PSAP and the carrier could complain to the Commission; for purposes of triggering a wireless carrier's obligation to begin the work to deliver Phase II service, it should be sufficient if the PSAP has contacted the LEC and requested that the LEC provide whatever facilities or capabilities are necessary for the PSAP to receive and utilize Phase II service. The Commission should not allow wireless carriers to avoid delivering Phase II service by blaming LECs and, conversely, for LECs to blame wireless carriers. All that a PSAP should have to do to show its readiness is to show that it has made a request to the LEC.

The foregoing criteria are objective, and they are also reasonable and balanced. If a PSAP meets these criteria, a wireless carrier should be required to accept the PSAP's request for Phase II service as valid, and the carrier should have six months from the date of the PSAP's request to deliver Phase II service.

5. Receipt of Phase I Service Not A Criterion- As noted supra, Richardson requested Phase I and Phase II service from its six wireless carriers in March 2000, and sixteen months later, all but one wireless carrier (Sprint PCS) have failed to provide Richardson with Phase I service. The actual receipt of Phase I service should not be a criterion for determining whether a PSAP's request for Phase II service is valid. Carriers should not be able to avoid their obligation to provide Phase II service by their own failure to provide Phase I service. The appropriate enforcement action for a carrier's failure to provide Phase I service is a matter for the Commission to decide, but whatever action it deems appropriate, the PSAPs and the public they serve should not be denied Phase II service as a result of a carrier's failure to provide Phase I service.

III. Conclusion

Wherefore, the City of Richardson respectfully requests that the Commission clarify Section 20.18 (j) of its rules to establish that if and when a PSAP shows that it meets the objective criteria specified herein, a carrier's obligation to deliver Phase II service within six months of a PSAP's request is triggered.

Respectfully submitted,

By: _____

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CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing was sent by U.S. mail, on this 25th day of July 2001, to the following persons:

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